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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/887,747	06/21/2001	Mihaela Van Der Schaar	US 000168	7494

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS

P.O. BOX 3001

BRIARCLIFF MANOR, NY 10510

EXAMINER

LEE, RICHARD J

ART UNIT	PAPER NUMBER
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2613

DATE MAILED: 03/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/887,747	<b>Applicant(s)</b> VAN DER SCHAAR ET AL.	
	<b>Examiner</b> Richard Lee	<b>Art Unit</b> 2613	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 December 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3,5,7-19,21-31,33-43 and 45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 7-19, 21-31, 33-43, 45 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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1. The request filed on December 8, 2004 for a Request for Continued Examination (RCE) is acceptable and a RCE has been established. An action on the RCE follows.
2. The applicants' arguments from the amendment filed December 8, 2004 have been noted, considered, and addressed in the following grounds of rejections.
3. Upon further review, the drawings are objected to because elements 150a, 150b, 120c, 130c, 140c, 150c, and 160c as identified at pages 7-8 of the Specification have not been shown in Figure 2b of the drawings. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.
4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

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5. Claims 1-3, 5, 7-19, 21-31, 33-43, and 45 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same, and shall set forth the best mode contemplated by the inventor of carrying out his invention. It is again that in the present case, descriptions of various elements within Figure 1 have been omitted in the Specification. The applicants' reason for this is due to the fact that motion compensation is well known in the art and need not be discussed, as specified at page 4 of the specification. It is however imperative and a requirement for the applicant to provide an adequate written description for the features as shown for completeness, even though Figure 1 is presented as prior art. Further, descriptions of various elements within Figure 3a have been omitted in the Specification. Figure 3a combines most of the features of Figure 1, and as such it is again a requirement that the specification provide a written description for all the elements within Figure 3a so as to enable one skilled in the art.

At pages 11-12 of the amendment filed December 8, 2004, the applicants have traversed the 35 U.S.C. 112, first paragraph rejection for the claims on the grounds that since the prior art Figure 1 is well known no further description is required for one of ordinary skill in the art to make and use the invention of the claims and the Examiner has not provided a preponderance of

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evidence showing why a person skilled in the art would not recognize in applicant's disclosure a description of the invention defined by the claims. It is submitted again that the claims in general recite the particular encoding in base and enhancement layers of a video signal with specifics of the transmission of the video in connection with the base and enhancement layers. As best understood by the Examiner, part of the claimed invention is derived from Figure 3a of the drawings. Since the Specification does not provide an adequate written description for both Figures 1 and 3, as described in the paragraph above, one skilled in the art would hence have difficulty recognizing in the disclosure a description of the invention defined by the claims. One skilled in the art would also have the undue burden of understanding and arriving at the claimed invention given the lack of written description of the invention. For the above reasons, the rejection of the claims under 35 U.S.C. 112, first paragraph is deemed appropriate and as such is maintained. It is unclear why the applicants are traversing the requirement again, but all that is required by the Examiner is simply some further elaboration of the features within Figures 1 and 3 that clearly are omitted and thus renders the Specification incomplete. Applicants are reminded that no new matter should be introduced to the Specification.

6. Claims 12 and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

At claim 12, line 1, "said elements" shows no clear antecedent basis.

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7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1-3, 5, 7-19, 21-31, 33-43, and 45 are rejected under 35 U.S.C. 102(e) as being anticipated by Chen et al of record (6,263,022).

Chen et al discloses a system and method for fine granular scalable video with selective quality enhancement as shown in Figures 2 and 3, and the same method, system, and apparatus as claimed in claims 1-3, 5, 7-19, 21-31, 33-43, and 45 for improving the transmission efficiency of an original video signal transmitted as a plurality of frames, the frames containing the video signal encoded in a base layer and an enhancement layer wherein at least one element of the enhancement layer is selectively enhanced by designating the at least one selected element to have a higher priority of transmission (i.e., the bitplanes of upwardly shifted macroblock or block of the enhancement layer are selectively coded and transmitted with higher priority, see column 5, line 54 to column 7, line 6, column 13, lines 46-67), comprising the same means for transmitting a first set of criteria (i.e., the bit planes of blocks or macroblocks identified as visually more important are being upwardly shifted, and the shift factor used to identify the shifting unit level is considered the first set of criteria, see column 6, line 41 to column 7, line 35) for one of the frames; means for transmitting an indicator (i.e., shifting factor and mode indicator, see column 4, lines 10-22, column 6, line 41 to column 7, line 35, column 13, lines 46-66) that causes the first set of criteria to be used for a subsequent one of the frames if a second

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set of criteria for the subsequent one of the frames is substantially the same as the first set of criteria (i.e., the bitplanes of a subsequent block or macroblock identified as visually more important is similarly upwardly shifted as indicated by a shift factor (i.e., second set of criteria), and the same shift factor used to identify the shift unit level from the first set of criteria is therefore used for the subsequent one of the frames, thereby providing an indicator that causes the first set of criteria to be used for a subsequent one of the frames if a second set of criteria for the subsequent one of the frames is substantially the same as the first set of criteria, see column 6, line 41 to column 7, line 35); wherein the first set of criteria includes at least one enhancement factor value, wherein the at least one enhancement value is applied and corresponds to each element within in the enhancement layer, the at least one enhancement factor value is power of two (i.e., the shift factor values provide the enhancement factor value, see column 4, lines 10-22, column 6, line 53 to column 7, line 24, column 13, lines 46-67); the first set of criteria includes position, size and enhancement factor value, wherein the position is selected with respect to a known point (i.e., the position and size of blocks/macroblocks, and shifting factor (enhancement factor value) indicating higher priority thereby enhancing the image (see column 6, line 53 to column 7, line 6, column 8, lines 6-25)); wherein the first set of criteria includes at least a second indicator (i.e., flag at the beginning of each block, see column 7, lines 13-18) that indicates a corresponding known value, the known value is selected from the group consisting of position, displacement vector, size, and enhancement factor, wherein the indicator is substantially the same as the at least a second indicator; wherein the elements comprise a plurality of pixels in an array having an equal number of rows and columns, wherein the number of rows is selected from the group consisting of 2, 3, 4, 8, 16 (see column 6, line 53 to column 7, line 6, column 8, lines

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6-25); wherein the enhancement layer is fine granular scalability encoded (see column 2, lines 43-60, column 8, lines 32-40); means for receiving the first set of criteria for the one of the frames and the indicator and means for applying the first set of criteria to the subsequent one of the frames (see column 14, lines 1-24).

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard Lee whose telephone number is (571) 272-7333. The Examiner can normally be reached on Monday to Friday from 8:00 a.m. to 5:30 p.m, with alternate Fridays off.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group customer service whose telephone number is (703) 306-0377.

  
RICHARD LEE  
PATENT EXAMINER

Richard Lee/rl

3/4/05

